



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/391,411	09/08/1999	YASUHIRO SATO	0557-4757-2	8571

22850 7590 07/02/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
----------

WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
----------	--------------

2612

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/391,411

Applicant(s)

SATO ET AL.

Examiner

Jason T. Whipkey

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 28 May 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the attached detailed advisory action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1-7,9-19 and 22-24.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

**ADVISORY ACTION**

1. An appeal under 37 CFR 1.191 was filed in this application on May 28, 2004.

Appellant's brief is due on July 28, 2004, in accordance with 37 CFR 1.192(a).

2. The amendment filed May 28, 2004, under 37 CFR 1.116 in reply to the final rejection has been entered, but is not deemed to place the application in condition for allowance. For purposes of appeal, the status of the claims is as follows:

**Allowed claims: None.**

**Rejected claims: 1-7, 9-19, and 22-24.**

**Claims objected to: None.**

3. Applicant's arguments filed May 28, 2004, have been fully considered but they are not persuasive.

Applicant argues that the Nagasaki reference fails to teach both a deviation correction device and a rotation regulator. Specifically, Applicant first argues that “[i]n independent claims 1 and 13 both a positional optical element is provided that can be repositioned and an image pickup device can be rotated. At most Nagasaki discloses movement perpendicular to the optical axis” (page 9, lines 6-8). The examiner sees no distinction. Nagasaki states that “actuator driver 10a is operated to drive the  $\theta$ -actuator 3a so as to rotate the imaging surface of the solid-state image pickup element 2 through the angle  $\theta$ , thus correcting the rotational displacement” (column 7, lines 57-61). Therefore, both the instant invention and the camera disclosed by Nagasaki have rotatable image sensors.

Applicant goes on to argue that “the outstanding Office Action appears to rely on the actuators 3a-3c and actuator drivers 10a-10c in Nagasaki as meeting the claim limitations. However, those elements clearly are shown in Nagasaki as only moving the image pickup element 2” (page 9, lines 10-13). Though Applicant shows disdain for the relevance of the Summary of the Invention section of the Nagasaki patent, the section nonetheless remains part of the patent’s disclosure. Since Nagasaki teaches that the actuators can be used to *displace* both the lens and the imaging surface (column 2, lines 18-20), Nagasaki discloses “a deviation correction device including a positional optical element configured to be repositioned”, as claimed. Additionally, since the displacement occurs for “correcting positional errors of the object image formed on the imaging surface” detected by the acceleration sensors (column 2, lines 18-22), Nagasaki also teaches that the correction is performed “based on the rotation angles calculated by the calculator”, as claimed. Nagasaki therefore anticipates the claimed element.

Applicant also argues that, “[a]t most [the] teachings in Yamasaki disclose that in the specific device therein the angle sensor can be replaced by an acceleration sensor or an angular velocity sensor. ... There is no teaching or suggestion in Yamasaki that an angular velocity sensor is an adequate substitute for an acceleration sensor used for sensing displacement such as in Nagasaki” (page 10, lines 9-15). The lack of elaboration provided by Yamasaki as to how an angular velocity sensor could be substituted for an acceleration sensor would suggest to one of ordinary skill in the art that the two are easily interchangeable. Additionally, knowledge of basic calculus would suggest to one of ordinary skill in the art that simply integrating the output of an acceleration measurement would result in a velocity measurement.

Applicant argues that since this motivation was not explicitly stated in Yamasaki, there is no motivation to combine the references (page 11, lines 17-21). While the motivation is not

Art Unit: 2612

explicitly stated, the examiner is relying on knowledge generally available to one of ordinary skill in the art — specifically, knowledge of calculus and the fact that the fewer the number of computations that a processor needs to perform, the less complicated the processor needs to be, thus resulting in a lower cost.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason T. Whipkey, whose telephone number is (703) 305-1819. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 6:00 P.M. eastern daylight time, alternating Fridays off.

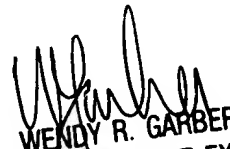
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R. Garber, can be reached on (703) 305-4929. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

JTW

June 29, 2004

  
WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600